

State of California  
BOARD OF EQUALIZATION  
MOTOR VEHICLE FUEL TAX REGULATIONS

**Regulation 1108. QUALIFIED DISTRIBUTOR.**

*Reference:* Sections 7306, 7401, 7451, 7486, 7487, 7671, and 7872, Revenue and Taxation Code.

**(a) AUTHORIZATION TO OPERATE AS A QUALIFIED DISTRIBUTOR.** A distributor may apply to the board for authorization to operate as a qualified distributor, as defined in Regulation 1133(a). The board will grant the distributor authorization to operate as a qualified distributor if the distributor establishes that it meets both of the following conditions:

(1) The distributor owns and operates a refinery in this state that is producing motor vehicle fuel which is subject to the motor vehicle fuel license tax or, if the distributor does not own and operate such a refinery in this state, the distributor has, for the twenty-four (24) month period immediately preceding the filing of an application for authorization to operate as a qualified distributor:

(A) held a valid motor vehicle fuel distributor's license issued by the board pursuant to Revenue and Taxation Code Section 7451;

(B) complied with the requirements of the Motor Vehicle Fuel License Tax Law (Part 2, Division 2 of the Revenue and Taxation Code, commencing with Section 7301); and

(C) distributed or redistributed a combined total of at least five hundred million (500,000,000) gallons of motor vehicle fuel in this state during each of the two consecutive twelve (12) month periods immediately preceding the filing of the application for authorization to operate as a qualified distributor.

(2) The distributor provides security, as described in subdivisions (A) and (B) below, and said combined security is sufficient to assure payment of all motor vehicle fuel license taxes as they become due. For purposes of this condition, the combined security will be deemed sufficient if it equals or exceeds three times the distributor's estimated or actual monthly motor vehicle fuel license tax liability. In determining whether real property owned by the distributor, combined with the bond posted by the distributor, is sufficient, the board will take into consideration only the unencumbered value of the real property.

(A) The distributor posts a bond in an amount fixed by the board of not less than fifty thousand (\$50,000) dollars, nor more than one million (\$1,000,000) dollars.

(B) The distributor owns real property in this state to which a lien may attach pursuant to Revenue and Taxation Code Section 7872. At the time of the filing of an application for authorization to operate as a qualified distributor, the distributor, at its own expense, must cause to be prepared and provide to the board either (i) an appraisal of the value of the real property in this state prepared in accordance with the Uniform Standards of Professional Appraisal Practice by an independent appraiser licensed pursuant to Business and Professions Code Sections 11300, et seq. or (ii) a copy of a current property tax assessment which shows the value of the real property as established on the local secured assessment roll for property tax purposes. In addition, the distributor, at its own expense, must cause to be prepared and provide to the board a report of title for the specific real property included in the appraisal or property tax assessment which shows the current encumbrances. As a condition of granting the application for authorization to operate as a qualified distributor, the board may, based on its review of the application and the existing encumbrances upon the real property, and its determination that a recorded interest in such property is necessary to secure payment of the applicant's tax liability, require the applicant to pledge the real property which serves as security and to permit the board to record an assignment and deed of trust against such real property offered as security that states that the real property has been pledged as security, and that the interests of persons who subsequently file a lien against the property will be subordinate to the interests of the board.

**(b) ANNUAL FINANCIAL REPORT.** Every qualified distributor will, no more than four months after the close of the qualified distributor's fiscal year, provide to the board its audited financial statements for that fiscal year. If audited financial statements are not available, the qualified distributor, at its own expense, will cause to be prepared and provide to the board either (i) an annual appraisal, by an independent appraiser licensed pursuant to Business and Professions Code Sections 11300, et seq., of the real property which serves as security pursuant to subdivision (a)(2)(B) of this regulation, or (ii) a copy of a current property tax assessment which shows the value, as established on the local secured assessment roll for property tax purposes, of the real property which serves as security pursuant to subdivision (a)(2)(B) of this regulation. The board may, based on its review of the appraisal or property tax assessment and its determination that the appraisal or property tax assessment does not provide adequate evidence that the payment of the qualified distributor's tax liability is secured, perform a financial audit of the qualified distributor to determine the qualified distributor's financial condition and the value of the real property which serves as security, after taking into account any encumbrances.

**(c) RESCISSION OF AUTHORIZATION TO OPERATE AS A QUALIFIED DISTRIBUTOR.**

(1) The board will rescind the authorization granted to a distributor to operate as a qualified distributor for any of the following reasons:

**(A)** There is a change in the ownership or control of the refinery which satisfied the requirement in subdivision (a)(1) of this regulation.

**(B)** If the distributor does not own and operate a refinery in this state, the distributor's combined distributions and redistributions of motor vehicle fuel in this state are less than three hundred fifty million (350,000,000) gallons during the immediately preceding twelve (12) monthly reporting periods.

**(C)** The value of unencumbered real property owned by the distributor in this state, combined with the bond the distributor posted pursuant to subdivision (a)(2)(A) of this regulation, is less than three times the distributor's estimated monthly motor vehicle fuel license tax liability as determined by the board based on any available information.

**(D)** The distributor fails to comply with subdivision (b) of this regulation,

**(E)** The distributor fails or refuses to comply with any provisions of the Motor Vehicle Fuel License Tax Law (Part 2, Division 2 of the Revenue and Taxation Code, commencing with Section 7301) or any rule or regulation of the board prescribed and adopted under the Motor Vehicle Fuel License Tax Law. However, the board will not rescind a distributor's authorization to operate as a qualified distributor based solely on the distributor's failure to timely pay a motor vehicle fuel license tax liability unless the liability equals or exceeds ten percent (10%) of the motor vehicle fuel license tax the distributor owed to the board in the previous year.

(2) Upon hearing, after giving the qualified distributor at least ten (10) days' notice in writing specifying the time and place of hearing, if the qualified distributor is unable to show cause why its authorization to operate as a qualified distributor should not be rescinded, the board will rescind such authorization. The notice will be given in the manner provided in Revenue and Taxation Code Section 7671.

*History: Adopted July 1, 1999, effective September 25, 1999.*